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September 11, 1990

0-254A008

RECORDATION NO.

8794-B  
FILED 1425

Interstate Commerce Commission  
12th & Constitution Avenue, N.W.  
Washington, D.C. 20423

SEP 11 1990 - 11 15 AM

INTERSTATE COMMERCE COMMISSION

Attn: Mildred Lee

Dear Ms. Lee:

Enclosed for filing and recordation with the Commission are an original and three counterparts of the document described below to be recorded pursuant to section 11303 of the Interstate Commerce Act, 49 U.S.C. §11303.

This document is a SETTLEMENT, TERMINATION AND RELEASE AGREEMENT. The primary document to which this document is connected is Recordation No. 8794.

The names and addresses of the parties to this document are as follows:

PLM - Delmarva, Inc. (Lessee)  
One Embarcadero Center  
Suite 2407 San Francisco, CA 94111

Delmarva Power & Light Company  
Box 231  
Wilmington, Delaware 19899

Continental Bank, <sup>National</sup> Association (Trustee)  
231 South LaSalle  
Chicago, Illinois 60697

Chrysler Capital Corporation  
225 High Ridge Road  
Stamford, Connecticut 06905

*2. Enc. 1-3  
Sent to Carlson*

SEP 11 1990  
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Interstate Commerce Commission  
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Lincoln National Bank and Trust Company  
of Fort Wayne  
116 East Berry Street  
Fort Wayne, Indiana 46802

Lincoln National Life Insurance Company  
1300 South Clinton Street  
Fort Wayne, Indiana 46801

The equipment covered by this document are 74 110-ton hopper cars, bearing carmarks PLMX 1369-1445 (except nos. 1374, 1423, and 1425).

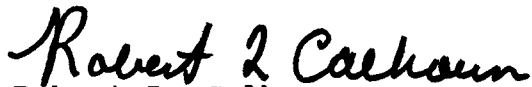
This document should be indexed as:

Settlement, Termination And Release Agreement, dated  
September 1990

It should be cross-indexed with Recordation No. 8075.

A check in the amount of \$15.00 is enclosed for the requisite filing fee.

Very truly yours,

  
Robert L. Calhoun  
Attorney for American Rail &  
Marine Corp., Inc.

Enclosures

FILE COPY

8794-B  
SEP 11 1990 - 11 15 AM

**SETTLEMENT, TERMINATION AND RELEASE AGREEMENT**

**SETTLEMENT, TERMINATION, AND RELEASE AGREEMENT** (the "Agreement"), dated September 10, 1990, among PLM-DELMARVA, INC., a California corporation (the "Lessee"), DELMARVA POWER & LIGHT COMPANY ("Delmarva"), a Delaware corporation, CONTINENTAL BANK NATIONAL ASSOCIATION, formerly known as Continental Illinois National Bank and Trust Company of Chicago, not in its individual capacity, but solely as owner trustee (the "Owner Trustee") under the Trust Agreement (the "Trust Agreement"), dated as of July 31, 1975, with CHRYSLER CAPITAL CORPORATION ("CCC"), a Delaware corporation (as beneficiary), LINCOLN NATIONAL BANK AND TRUST COMPANY OF FORT WAYNE, as agent under the Conditional Sale Agreement, dated as of July 31, 1975, with the Owner Trustee (the "Agent"), and LINCOLN NATIONAL LIFE INSURANCE COMPANY, as lender (the "Lender").

WHEREAS, the Participation Agreement (the "Participation Agreement") dated July 31, 1975 was executed by Professional Lease Management, Inc., Lessee, Delmarva, Owner Trustee, International Paper Equipment Leasing Corporation, Agent, and the Party named in Schedule B therein;

WHEREAS, the Lease of Railroad Equipment, dated as of July 31, 1975 (the "Lease", capitalized terms used herein without other definition have the respective meanings set forth in the Lease), between the Lessee and the Owner Trustee was filed on October 10, 1975 with the Interstate Commerce Commission as Document No. 8075B;

WHEREAS, the Sublease of Railroad Equipment, dated as of July 31, 1975 (the "Sublease") between the Lessee, as sublessor and Delmarva, as sublessee was filed on October 10, 1975 with the Interstate Commerce Commission as Document No. 8075D;

WHEREAS, the Assignment of Lease and Agreement (the "Lease Assignment") dated as of July 31, 1975 between the Owner Trustee, as assignor and the Agent, as assignee was filed on October 10, 1975 with the Interstate Commerce Commission as Document No. 8075C;

WHEREAS, the Assignment of Sublease and Agreement (the "Sublease Assignment") dated as of July 31, 1975 between the Lessor, as assignor and the Owner Trustee, as assignee was filed on October 10, 1975 with the Interstate Commerce Commission as Document No. 8075E;

WHEREAS, the Reassignment of Sublease and Agreement, (the "Sublease Reassignment") dated as of July 31, 1975 between the Owner Trustee, as assignor and the Agent, as assignee was filed on October 10, 1975 with the Interstate Commerce Commission as Document No. 8075F;

WHEREAS, the Pledge Agreement (the "Pledge") dated July 31, 1975 was executed by the Owner Trustee and Professional Lease Management, Inc.

WHEREAS, the Assignment of Pledge Agreement (the "Pledge Assignment") dated as of July 31, 1975 was executed by the Owner Trustee, as Vendee, and the Agent, as assignee;

WHEREAS, the Conditional Sale Agreement (the "CSA") dated as July 31, 1975 between Pullman Incorporated (Pullman-Standard division) as Vendor or Builder (the "Builder") and the Owner Trustee was filed on October 10, 1975 with the Interstate Commerce Commission as Document No. 8075;

WHEREAS, the Agreement and Assignment (the "Agreement and Assignment") dated as of July 31, 1975 between the Builder and the Agent was filed on October 10, 1975 with the Interstate Commerce Commission as Document No. 8075A;

WHEREAS, the PLM-Delmarva Assignment Agreement (the "PLM Assignment") dated as of April 26, 1977, between the Lessee and PLM, Inc., was filed on April 27, 1977 with the Interstate Commerce Commission as Document No. 8796;

WHEREAS, the Reassignment Agreement (the "PLM Reassignment") dated as of April 26, 1977, between International Paper Leasing Corporation and PLM, Inc. (with the Acknowledgement and Consent to Further Assignment attached) was filed on April 27, 1977 with the Interstate Commerce Commission as Document No. 8796A;

WHEREAS, the Lease, the Sublease, the Lease Assignment, the CSA, the Trust Agreement, the Sublease Assignment, the PLM Assignment, the PLM Reassignment (to the extent of the Sublease and the Equipment), the Pledge, the Sublease Reassignment, the Pledge Assignment, the Agreement and Assignment and the Participation Agreement are hereinafter collectively called the "Operative Documents";

WHEREAS, CCC succeeded International Paper Equipment Leasing Corporation as beneficiary under the Trust Agreement; and

WHEREAS, the parties hereto mutually desire (i) to settle, compromise and resolve fully all claims, demands and matters which any may now have, or which may accrue in the future, against each other arising out of, in connection with, or relating to the Operative Documents and to do so without further expenditures of time and expense and to avoid the costs and uncertainties of litigation (such claims, demands and matters, and expenses (including attorneys' fees) and costs) incurred or to be incurred in the future in connection therewith, are hereinafter referred to collectively, as the "Claims"; (ii) to terminate the Operative Documents; (iii) to terminate of record all of the Operative Documents filed with the Interstate Commerce Commission; and (iv) to release the parties hereto from their obligations under the Operative Documents.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and intending to be legally bound, the parties agree as follows:

1. Except as otherwise specifically provided herein, each of the Operative Documents shall terminate and be of no further force and effect upon (a) performance by Delmarva of its obligations pursuant to paragraphs 12, 13 and 14 herein, (b) the performance of the obligations of the Agent pursuant to paragraph 13 herein and (c) the delivery by the Agent of UCC-3 termination statements where any UCC-1 statements were originally filed. The parties to the Trust Agreement agree that any interest of the Owner Trustee in the Equipment shall simultaneously, with the execution of this Agreement, be transferred to CCC.

2. Except as otherwise specifically provided herein, each of the parties hereto on behalf of itself and its beneficiaries, successors and/or assigns, irrevocably and unconditionally releases, acquits, and forever discharges each of the other parties hereto and each of their respective, present and former owners, shareholders, directors, officers, agents, employees, attorneys, representatives, subsidiaries, divisions, affiliated companies, successors and assigns and each of them, jointly and severally, of and from all of the Claims and any and all manner of claims, suits, demands, debts, dues, accounts, taxes, bonds, covenants, contracts, promises, agreements, judgements, claims for indemnity, liabilities, obligations, rights (including, without limitation, any right to join either or both of the other parties as a party in any suit by any third party against any or all of the parties hereto) costs, expenses, attorneys' fees, actions or causes of action of whatsoever kind or nature in law or in equity, direct or indirect, whether presently known or unknown, suspected or unsuspected, foreseen or unforeseen, or accrued or not accrued, which each of the parties or its respective successors or assigns, or any of them, ever

had, now have or hereafter can, shall or may have upon or by reason of any event, matter, cause or thing whatsoever, from the beginning of the World to the date of this release against each and any of the other parties with respect to, arising out of, or in any way connected with the Claims and/or the Sublease and the transactions thereunder.

3. Each of the parties hereto hereby represents and warrants to the other parties that it has not assigned any Claim or authorized any person or entity to assert any Claim, or assigned any right or interest in and to the Equipment or to the Operative Documents on its behalf and it has not filed any complaints, charges or lawsuits concerning the Operative Documents with any local, state or federal agency or court, and that it will not do so at any time hereafter and that if such agency or court assumes jurisdiction of any complaint, charge or lawsuit against either of the other parties on behalf of any of the parties, it shall request such agency or court to withdraw from the matter, and shall withdraw its name from the matter.

4. Except as specifically provided herein, it is the express intent of each of the parties hereto to waive any and all Claims it may have against each of the other parties including any which are presently unknown, unsuspected, unanticipated or undisclosed. Each of the parties hereto, in full possession of the facts and with sufficient opportunity to receive advice of counsel, expressly enters into this Agreement knowing and understanding that if the facts on which the release contained herein is executed are found or determined to be other than or different from the facts now believed by it to be true, it expressly accepts and assumes the risk of such possible difference in fact and agrees that this Agreement and the release contained in it shall remain effective notwithstanding any difference of facts.

5. Each of the parties hereto agrees that the terms of this Agreement, as well as any information disclosed by any of the parties in the negotiations leading to this Agreement, shall remain completely confidential and shall not be disclosed by it, directly or indirectly (unless required to be disclosed by any law, court, agency or any other legally constituted tribunal or unless the information contained herein becomes public knowledge) except as the terms hereof may be disclosed by the filing of this Agreement with the Interstate Commerce Commission and by the delivery of a draft of the Agreement to the prospective buyer of the Equipment. In response to any inquiries to any of the parties hereto its counsel or any of its representatives concerning the status of any matter covered by this Agreement, the response will be given that the parties have resolved amicably any differences they have had, and where necessary and appropriate, the parties may state that they have reached a settlement which by its terms must remain confidential.

Furthermore, this paragraph shall not apply to any disclosure in legal proceedings to enforce the rights or obligations contained in this Agreement.

6. All of the parties agree that this Agreement is a compromise settlement of disputed claims and that neither its execution nor its terms shall constitute or be construed as an admission, expressed or implied, by any of the parties of any liability with respect to any matters covered by this Agreement.

7. In any action to enforce the terms of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and expenses from the other party and costs and other nonreimbursement litigation expenses, such as expert witness fees and investigation expenses.

8. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of New York without regard to any conflict of law principles. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any party.

9. Should any part or term of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining words, phrases, sentences, clauses and provisions shall not be affected and any illegal or invalid term or part shall be deemed not to be part of this Agreement.

10. Notwithstanding the foregoing and the termination of the Operative Documents, (x) Delmarva hereby confirms that the indemnity provisions of the Sublease, specifically paragraphs 6 and 9, shall survive with respect to claims arising after the date hereof due to acts omissions or events occurring prior to the date hereof; (y) the Lessee hereby confirms that the indemnity provisions of the Lease, specifically paragraph 9, shall survive with respect to claims arising after the date hereof due to acts, omissions or events occurring prior to the date hereof; and (z) CCC hereby confirms that the indemnity provisions of the Trust Agreement, specifically Article V, shall survive. CCC further represents and warrants, to the best of its knowledge, (without further inquiry) that no other party and no other transaction document exists outside of those parties and the Operative Documents specifically referred to herein. Furthermore, the parties hereby agree that all representations, warranties or agreements provided pursuant hereto shall survive the execution and delivery of this Agreement.

11. CCC, as Beneficiary under the Trust Agreement, hereby directs the Owner Trustee to enter into this Agreement, revokes the trust and vests in itself title to the Equipment, and agrees to record this Agreement with the Interstate Commerce Commission to evidence the transfer of ownership from the Owner Trustee to CCC in lieu of one or more bills of sale. Pursuant to Section 9.02 of the Trust Agreement, and at the direction of CCC, the Trustee hereby transfers without warranties, all right, title and interest in and to the Equipment. CCC hereby waives the provisions of the last sentence of said Section 9.02.

12. Delmarva shall pay CCC \$222,000 (\$3,000 x 74 Railcars) in immediately available funds on September 10, 1990. This payment constitutes settlement of Delmarva's obligations under paragraph 7 of the Sublease requiring Delmarva to maintain the Railcars in good operating order, ordinary wear and tear excepted.

13. Delmarva shall remit \$91,137.17, in immediately available funds on September 10, 1990 to the Agent. This amount shall be accumulated with \$42,911.83 previously accrued by the Agent on behalf of this transaction. The Agent shall then promptly remit to the Lender by wire transfer, in accordance with Lender's written directions of September 10, 1990, the principal sum of \$105,613.21, accrued interest of \$1,734.55 and prepayment premium of \$1,400.00 for a total of \$108,747.76, in payment of any outstanding obligations due the Lender. The sum remaining with the Agent, following this payment to the Lender shall be distributed to PLM-Delmarva, Inc.

14. Delmarva shall deliver possession of the Railcars [Road Numbers PLMX - 1369 to 1445 (inclusive) excluding: PLMX - 1374, 1423 and 1425] to CCC no later than September 12, 1990. Delmarva hereby represents and warrants that at the time of delivering possession of the Railcars to CCC, the Railcars will be free and clear of any and all liens, encumbrances or claims (other than those created by CCC, the Agent, the Lessee or the Lender or resulting from claims against CCC, the Agent, the Lessee or the Lender). Delmarva shall be obligated to pay for the cost of moving the Railcars from the Eastern Shore Railroad's storage area at Cape Charles, Virginia to the interconnection with Conrail at Pocomoke City, Maryland. CCC shall be obligated to pay the cost of moving the Railcars from Pocomoke City, Maryland to any other destination.

IN WITNESS WHEREOF, the undersigned have duly executed this Settlement, Termination and Release Agreement by their respective, authorized officers as of the day and year first written above.



PLM-DELMARVA, INC.

By: *Stephen Pochos*

Title: VP

STATE OF California  
COUNTY OF San Francisco

SS.

On this 6th day of September, 1990, before me personally ~~appeared~~ Stephen Pochos, to me personally known, who being by me duly sworn, says that he is Vice President of PLM, Inc., that said instrument was signed on behalf of said corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instruments was the free act and deed of said corporation.

My commission expires: *Nina Godinez*



DELMARVA POWER & LIGHT COMPANY

By: William M. Riggins

Title: Manager Fuel Supply

STATE OF Delaware

SS.

COUNTY OF New Castle

On this 10 day of September, 1990, before me personally ~~appeared~~ <sup>approved</sup> William M. Riggins, to me personally known, who being by me duly sworn, says that he is Manager Fuel Supply of Delmarva Power & Light Company, that said instrument was signed on behalf of said corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instruments was the free act and deed of said corporation.

My commission expires:

Jacqueline D. Butler  
4/3/92

CONTINENTAL BANK NATIONAL ASSOCIATION, not in its individual capacity (except with regard to termination of the Trust Agreement) but solely as Owner Trustee under the Trust Agreement, dated as of July 31, 1975.

By: *J. Mull*  
Title: VICE PRESIDENT

STATE OF ILLINOIS SS.  
COUNTY OF COOK

On this 6TH day of SEPTEMBER, 1990, before me personally ~~appeared~~ J.C. MULL, JR., to me personally known, who being by me duly sworn, says that he is a [title] Vice President of Continental Bank National Association, that said instrument was signed on behalf of said corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instruments was the free act and deed of said corporation.

My commission expires: 9-20-92



LINCOLN NATIONAL BANK AND TRUST  
COMPANY OF FORT WAYNE, as Agent

By: Mark J. Weber  
Title: Asst. Trust Officer

STATE OF Indiana  
COUNTY OF Allen SS.

On this 6th day of September, 1990, before me personally approved MARK J. Weber, to me personally known, who being by me duly sworn, says that he is Asst. Trust Officer of Lincoln National Bank and Trust Co., that said instrument was signed on behalf of said corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instruments was the free act and deed of said corporation.

My commission expires:

Karen Heller

KAREN HELLER, Notary Public  
Resident of Adams County  
My Commission expires 5-3-94

CHRYSLER CAPITAL CORPORATION

By: 

Title: Vice President

STATE OF Connecicut

ss.

COUNTY OF Fairfield

On this 6th day of September, 1990, before me personally approved Richard G. Neptune, to me personally known, who being by me duly sworn, says that he is Vice President of Chrysler Capital Corporation, that said instrument was signed on behalf of said corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instruments was the free act and deed of said corporation.

My commission expires:

Kathleen A. Cone

KATHLEEN A. CONE  
NOTARY PUBLIC  
MY COMM. EXPIRES MARCH 31, 1994

PLM, Inc., as successor to  
PROFESSIONAL LEASE MANAGEMENT, INC.

By: *Stephen Pochos*

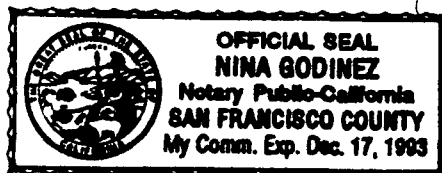
Title: \_\_\_\_\_

STATE OF California  
COUNTY OF San Francisco

SS.

On this 6th day of September, 1990, before  
me personally ~~approved~~ <sup>appeared</sup> Stephen Pochos, to me personally  
known, who being by me duly sworn, says that he is Vice President  
of PLM, Inc., that said instrument was  
signed on behalf of said corporation, that said instrument was  
signed on behalf of said corporation by authority of its Board of  
Directors, and he acknowledged that the execution of the  
foregoing instruments was the free act and deed of said  
corporation.

My commission expires: \_\_\_\_\_



1300 South Clinton Street  
P.O. Box 1110  
Fort Wayne, Indiana 46801



LINCOLN NATIONAL LIFE INSURANCE  
COMPANY

PA  
By: H. Thomas McMeekin

Title: Vice President

STATE OF \_\_\_\_\_

SS.

COUNTY OF \_\_\_\_\_

On this 7 day of September, 1990, before me personally approved H. Thomas McMeekin, to me personally known, who being by me duly sworn, says that he is Vice President of Lincoln National Life Insurance Co., that said instrument was signed on behalf of said corporation, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instruments was the free act and deed of said corporation.

My commission expires:

Carol A. Schultz  
CAROL A. SCHULTZ, Notary Public  
Resident of Whitley County, Indiana  
My Commission Expires September 27, 1992